

**REMARKS**

No claims have been added or deleted in this response. Claims 11, 12, and 14 have been amended in response to the Office's suggestion to overcome the rejection under 35 USC 101. All claims are rejected as being unpatentable under 35 USC 103 in view of the combination of Lencki and Kaehler. Certain claims were rejected under 35 USC 101. The undersigned respectfully request reconsideration of this rejection in view of the arguments presented herein.

**Rejection of Claims under 35 USC 101**

Independent claim 11, as well as claims 12 and 14, have been amended as suggested by the Examiner to particularly reference operation of the steps on a machine. Accordingly, the undersigned submits that the claims are now patent-eligible and respectfully request withdrawal of this rejection.

**Rejection of Claims under 35 USC 103 in view of Lencki and Kaehler**

All arguments from the previous response are incorporated herein. The Office primarily relies upon the Lencki reference as disclosing most of the claim limitations. The bulk of the Office's rejection is found on page 4 as follows:

- a claim processing system (paragraph [0111]);
- a health plan management software module (paragraph [0281]) where Lencki discloses customer service software which can be modified to encompass a health care plan; and
- a defined contribution management software module integrated with the health plan management software module (paragraphs [0093] and [0094]), both the health plan management and defined contribution software modules operable by the claim processing system to:
  - create a defined contribution application for the health plan to allow for the entry of information for the defined contribution plan (paragraphs [0271] and [0273]);
  - link defined contribution plan information to the health plan (paragraph [0184]); and
  - establish allocation rules and amounts for the defined contribution plan (paragraph [0084]);
  - Allocation rules and amounts for the defined contribution plan which comprises for the FSA, defining parameters including a claim submission method considered during FSA claim processing (paragraphs [0081], [0193], and [0206] where Lencki discloses an invention in which an employee contributes to an account where pre and post tax dollars can be contributed, which is equated to a flexible spending account.

What is most disconcerting about this rejection is that the paragraph citations are completely out of order. This fact, in and of itself, is not fatal, as we all know that sometimes descriptions of systems and methods can be slightly out of order, but the present claims specifically require the integration of a first module - the health plan management software module - with a second module - the defined contribution management software module - in order to create, establish, allocate, etc. as claimed. The Office's rejection suggests that a module that isn't even referenced until paragraph [0281] in Lencki is integrated with a second module described nearly 100 paragraphs earlier ([0093], [0094]) in order to perform actions that are described BEFORE the first module is ever described, i.e., at [0271], [0273], [0184], [0084], [0081], [0193], [0206].

Further, even if the description was such that the "software" referenced in paragraph [0281] could be integrated with the generic "system" described at [0093], [0094], the "software" in [0281] clearly cannot be stretched into describing a health plan management software module with the functionality required by the claims. The entirety of paragraph [0281] is set forth below:

Customer Service and Customer Care Center  
[0281] An integrated software Customer Relationship Management (CRM) solution may be employed to support

the traditional customer service function. The software may be fully integrated with the web site, the claims processing system, and the operations of other business partners to deliver end-to-end customer relationship management. A customer service application, e.g. from Clarify, may be modified to fit the healthcare model, as well as the business processes described herein.

This paragraph does nothing more than suggest that known customer service applications may be employed to support "traditional customer service function." A health plan management software module is not the same as a customer service application. One skilled in the art would recognize that just as has been suggested by Lencki, customer service functionality would be an add-on to other functionality/systems, e.g., such as the claims processing system. Accordingly, at most, the application referenced in [0281] might be part of a health plan management software module, but certainly cannot be equated to a health plan management software module. This paragraph quite simply does not meet the claimed limitation requiring a health plan management

software module or the integration thereof with a defined contribution management software module.

Further still, the undersigned has reviewed paragraphs [0093] and [0094] in detail and again fails to see where these paragraphs recite the required "contribution management software module." These paragraphs are set forth below and while they passively reference a defined contribution strategy, there is no description herein of a contribution management software module, integration of a contribution management software module with a health plan management software module, or any of the claimed functionality.

[0093] In response to the difficulties ascribed to the managed care industry, the AMA has endorsed a defined contribution strategy as well as any program that will relieve physicians from the constraints of managed care. A system consistent with the invention has a direct impact on the provider by eliminating the managed-care administrative burdens such as referrals, pre-certifications and limited provider choice. The system expects more and better interactions with the patient on the part of all providers and delivery of service that meets the physical and emotional needs of the customer. The physician/provider will also benefit from our nationally recognized disease management protocols available on-line as well as access to population and patient specific health-risk/health-status information provided through the system data warehouse.

[0094] Additional product attributes may include the following: The module/option design ensures flexibility to modify the product to meet employer and employee demands and purchasing characteristics. The data captured and the information generated will allow both employer and providers to review the overall utilization patterns and to meet emerging demands rather than reacting to the volume/tone of consumer complaints. All parties may move with the maturing process of disease management to the next level of impact by embedding disease management into the core business functions of company providing the system (hereinafter "the company"), i.e. claims, customer service. Service kiosks may be provided in the workplaces. Outcome analysis may enable the company providing the system to see trends and meet the customer at the point of their new preferences.

The secondary reference, Kachler, does not remedy the deficiencies of Lencki. At most, Kachler describes a process which allows for employees (or members) to designate at what point and in what order funds from various accounts are to be used to pay for services. These various

accounts could include HRA and/or FSA accounts, as well as personal spending accounts (e.g., checking or the like). Kaehler is not describing an application for creating or formatting the HRA and/or FSA accounts themselves, but instead assumes these accounts have already been established. Accordingly, Kaehler does not and cannot:

- determin[e] whether HRA allocated amounts are to be carried over, and
- defin[e] parameters including a claim submission method considered during FSA claim processing.

Again, Kaehler describes establishment of hierarchical rules for using funds from pre-established types of accounts to settle payments. This does not call for or require establishment of a defined contribution management software module or integration or linking thereof with a health plan.

For the reasons presented herein, the undersigned submits that numerous claimed limitations are absent from the combination of Lencki and Kaehler and as such the pending claims are patentable over the cited art. The undersigned respectfully requests reconsideration of the Office's rejections and an indication of claim allowability.

**CONCLUSION**

The undersigned representative respectfully submits that this application is in condition for allowance, and such disposition is earnestly solicited. The undersigned requests an in-person interview to discuss the positions articulated herein prior to the Office's decision on the merits and will follow-up post-filing to schedule. In addition, if any additional fees are required in connection with the filing of this response, the Commissioner is hereby authorized to charge the same to Deposit Account 50-4402.

Respectfully submitted,

Date: February 17, 2010  
KING & SPALDING LLP  
1700 Pennsylvania Ave., NW  
Washington, DC 20006  
(202) 626-8978

By: /Dawn-Marie Bey - 44,442/  
Dawn-Marie Bey  
Registration No. 44,442